

UNITED STATES DISTRICT COURT

**EASTERN DISTRICT OF TEXAS
BEAUMONT DIVISION**

GAMES PEOPLE PLAY, INC.,

Plaintiff,

v.

NIKE USA, INC.,

Defendant.

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CIVIL ACTION NO.

1:14-CV-00321-MAC

**NIKE’S UNOPPOSED MOTION TO ENFORCE SETTLEMENT AGREEMENT BY
ENTRY OF JUDGMENT**

Defendant Nike USA, Inc. (“Nike”) hereby moves to enforce its settlement agreement with Plaintiff Games People Play, Inc. (“GPP”). A proposed order is attached as Exhibit A. In support of this motion, Nike states as follows:

1. In its original, first amended, and second amended complaints in this case (filed May, 16, 2014, July 2, 2014, and October 14, 2014, respectively), GPP alleged various claims against Nike, including violation of the Robinson–Patman Act and Oregon common-law and statutory claims. ECF Nos. 2, 16, & 29.

2. Nike counterclaimed for an account stated, breach of contract, action for the price, and goods sold and delivered, all related to certain goods that Nike had delivered to GPP but that GPP had not paid for. ECF No. 46 (February 27, 2015).

3. After nearly three years of litigation, the parties reached a settlement agreement (“Settlement Agreement”). ECF No. 105 (Joint Motion for Entry of Agreed Judgment, filed February 3, 2017). Under the Settlement Agreement, January 31, 2017, the parties agreed that GPP owed Nike \$196,341.04 (“Judgment Amount”) on Nike’s counterclaim, and that this

represented GPP's debt to Nike for goods that GPP ordered from Nike and that Nike delivered to GPP, together with interest and costs as provided by the parties' contract. *Id.* The Settlement Agreement further provided for dismissal of all claims against Nike with prejudice. *Id.* In the Settlement Agreement, the parties further agreed that, in the event GPP breached the Settlement Agreement, it would not oppose entry of judgment for the outstanding balance of the Judgment Amount. *Id.* The parties asked the Court to retain jurisdiction over the case for purposes of enforcing the Settlement Agreement. *Id.* A copy of the Settlement Agreement is attached hereto as Exhibit B.

4. On February 7, 2017, this Court entered an Order of Dismissal. ECF No. 106. The Court ordered that, "[i]n accordance with the parties' Joint Motion for Entry of Agreed Judgment (#105), filed February 3, 2017, this action is dismissed in its entirety, with prejudice. Each party shall bear its own costs of court and attorney's fees. The court retains jurisdiction to enforce the parties' settlement agreement." The Court stated that this was a final judgment. *Id.*

5. GPP has breached the Settlement Agreement by failing to make timely payments and failing to cure, and it has indicated through counsel that it does not intend to make the remaining payments. A summary of GPP's payment history is provided in the attached Exhibit C, Declaration of Jessica Baumann. GPP currently owes Nike \$168,841.04.

6. In accordance with the parties' settlement agreement, the Joint Motion for Entry of Agreed Judgment (ECF No. 105), and the Order of Dismissal (ECF No. 106), Nike is entitled to entry of judgment against GPP in the amount of \$168,841.04.

CONCLUSION

For the foregoing reasons, Nike asks the Court to enter judgment in favor of Nike and against GPP in the amount of \$168,841.04, in the form attached as Exhibit A.

Respectfully submitted,

/s/ Alan Dabdoub

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ATTORNEYS FOR DEFENDANT

NIKE USA, INC.

CERTIFICATE OF SERVICE

I hereby certify that the above document, was filed through the ECF system for electronic service to the registered participants as identified on the Notice of Electronic Filing, and paper copies will be sent by First-Class mail to those indicated as non-registered participants (if any) on October 1, 2018.

/s/ Alan Dabdoub

Alan Dabdoub